



COMBINED DECLARATION, POWER OF ATTORNEY AND PETITION

a. ☐ is attached hereto
b. ☒ was filed on November 17, 2000, as application serial no. 09/700,901 and as amended on (if applicable).
c. ☐ was filed on _____ as PCT application serial no. _____

a. ☐ no such foreign applications have been filed.
b. ☒ foreign applications have been filed as follows:

b. <input checked="" type="checkbox"/> foreign applications have been filed			
FOREIGN APPLICATIONS, IF ANY, FOR WHICH PRIORITY IS CLAIMED UNDER 35 USC § 119			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)	DATE OF ISSUE (Day, Month, Year)
GERMANY	198 22 468.0	MAY 19, 1998	
ALL FOREIGN APPLICATIONS, IF ANY, FILED BEFORE THE PRIORITY APPLICATION			
COUNTRY	APPLICATION NUMBER	DATE OF FILING (Day, Month, Year)	DATE OF ISSUE (Day, Month, Year)

I hereby claim the benefit under Title 35, United States Code, §§ 120 and 365 of any United States and PCT international applications listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States applications in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) that occurred between the filing date of the prior applications and the national or PCT international filing date of this application.

INTERNATIONAL APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (patented, pending, abandoned)
PCT/DE99/01505	May 19, 1999	

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional applications listed below:

U.S. PROVISIONAL APPLICATION NUMBER	DATE OF FILING (day, month, year)

I hereby appoint David R. Cleveland (Reg. No. 29,524) my attorney with full powers (including the powers of appointment, substitution, and revocation) to prosecute the Application and any division, continuation, continuation-in-part, reexamination, or reissue thereof, and to transact all business in the Patent and Trademark Office connected therewith. The mailing address, telephone and facsimile numbers for correspondence with my attorney is:

David R. Cleveland
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Docket No. 108-C1553US

Saint Paul, MN 55101

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I also declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Application or any patent issuing thereon.

Wherefore, I pray for grant of Letters Patent for the invention or discovery described and claimed in the Application, and I hereby subscribe my name to the Application, and to this Declaration, Power of Attorney and Petition, on the date set forth below.

100

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Date:	

Docket No. 108-C1553US

§1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.